

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NORTON MCNAUGHTON OF SQUIRE,
INC., JONES APPAREL GROUP, INC.,

Plaintiffs,

- against -

M/V MARGRETHE MAERSK, *in rem*,
Maersk Line, Maersk Sealand,

Defendants

07 CV 3716 (RWS)

DECLARATION OF SAMIUL AMIN

SAMUIL AMIN, under penalty of perjury, declares as follows:

1. I am presently employed as a surveyor for National Marine Consultants, Inc., a position which I have held since 2002.
2. I was the "supervising surveyor" in connection with National Marine Consultants' (NMC) survey of the shipment of garments carried in container No. MAEU600017-6 in May 2005, under NMC reference number N59116-05. The inspection of the container and garments was conducted by surveyor Patsy Voyles, a sub-contractor of NMC, at the premises of Jones Apparel Warehouse in South Hill, Virginia on May 12, 2005.
3. Based upon information provided to me by Ms. Voyles, I prepared the "Preliminary Report of Survey" dated May 18, 2005, a true and authentic copy of which is attached hereto as Exhibit A, and the final "Report of Survey" dated May 27, 2005, a true and authentic of which is attached hereto as Exhibit B. It is the standard practice at National Marine Consultants that all survey reports issued by our office are to be signed by a senior surveyor. In this case, the reports attached as Exhibit A and B were signed by Senior Surveyor Safdar Khan.

However, as the supervising surveyor on the matter, I was the surveyor who actually drafted the reports.

4. In reference to the statement on Page 3 of the Preliminary Survey Report (Ex. A) noting that "the shipper confirmed that there was no smell during loading of the cargo," that representation was made to Ms. Voyles, our surveyor, by the cargo receiver at the time of our inspection in May, 2005. NMC does not have any knowledge or information as to whether that statement was in fact made by the shipper, or, if so, whether it is true.

5. I confirm that neither Ms. Voyles nor anyone at our office conducted any investigation as to the condition of the garments at the time they were stuffed into the container by the shipper. Specifically, neither Ms. Voyles nor anyone at our office interviewed any representative of the shipper, PYL Apparel Ltd., or any other party who may have been involved in the stuffing of the container in Hong Kong. I further confirm that neither I nor any other employee, sub-contractor or representative of NMC was present during the stuffing of the container or had an opportunity to inspect the garments prior to stuffing in Hong Kong.

6. The investigation and inspection of the subject shipment conducted by NMC and its sub-contractor was limited solely to the condition of the container and garments at the time of our inspection at the premises of Jones Apparel Warehouse in South Hill, Virginia on May 12, 2005.

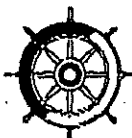
7. On behalf of National Marine Consultants, based upon the inspection conducted on our behalf by our sub-contractor, I confirm that we do not have any knowledge or information as to the condition of the garments at the time they were stuffed into container MAEU6000176 at Hong Kong.

7. I declare under penalty of perjury of the laws of the United States of America that the foregoing statements are true and correct.

Executed on 21st day of November 2007.


SAMUIL AMIN

EXHIBIT A
TO DECLARATION OF
SAMIUL AMIN



NATIONAL MARINE CONSULTANTS INC.
236 Ernston Road, Parlin, N.J. 08859 • Tel. 732-553-9210 • Fax. 732-553-9215
e-mail: nmci@natmar.com, web site : www.natmar.com

PRELIMINARY REPORT OF SURVEY

Report no.: N 59116/05

May 18, 2005

Examined for : The account of whom it may concern.
Requested by : Maersk Sealand, Charleston, SC
(Ms. Trudy Coffey)
Vessel : Margrethe Maersk, Voy. #0506
Date/time survey requested: May 11, 2005 @ 1210 Hours
Date survey commenced : May 12, 2005
Date survey completed : May 12, 2005
Container No. : MAEU 600017-6 (20')
B/L Number : MAEU501016075
Shipment : 15,347 pieces garments
Purpose of Survey: To ascertain the cause and extent of
damage.
Shipper : PYL Apparel Limited
RM 1101-02, 11/F Stelux House
698 Prince Edward Rd. East
Sao Po Kong, KLN
Consignee : To order of Norton McNaughton of Squire
Inc.
Value of Shipment: Unknown

On May 12, 2005, we attended at the premises of Jones Apparel Warehouse, 170 Butts Street, South Hills, Virginia, in order to examine the subject shipment and report on conditions sighted.

Background information

On May 11, 2005, the warehouse opened the subject container and a strong diesel odor was emanating from the cargo. Three samples were pulled and sent for dry cleaning.

ISO 9001:2000 Certified Quality System   and ISO/IEC 17020 Accredited 

*New York, Philadelphia, Baltimore, Norfolk, Wilmington(NC), Savannah, Miami, Tampa, New Orleans, Houston,
Los Angeles, Port Hueneme, Oakland, Seattle and throughout all points in the U.S., Canada, Europe & Worldwide*

National Marine Consultants Inc.

N 59116/05 Margrethe Maersk

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The three samples after dry cleaning still retained the odor even though there were no stains on any of the clothing.

Our principals therefore requested us to inspect the cargo and container and report on conditions sighted.

Cargo Underwriters Information

This information was not made available to us, but Mr. Hal Mabee, of Norfolk Maritime, the Surveyors representing the Cargo Underwriters examined the cargo at a later date.

Persons attending during the survey

Ms. Vicky Walker of Jones Apparel Warehouse was present during our inspection.

Shipment Description

The subject shipment is said to comprise of 15,347 pieces of ladies garments.

Cargo stowage and condition in stow

The garments were hanging from the ceiling with the sides and floor lined by plastic sheets. The skirts and blouses were hanging on a corded rope in loops and on plastic hangers in five rows.

We noted a strong odor inside the container.

Container Information

1. Roof panel : No exceptions noted.
2. Side panels
 - Right side : : Old minor dents and rust areas.
 - Left side : : Old minor dents and rust areas.

National Marine Consultants Inc.
N 59116/05 Margrethe Maersk

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3. Front panel : Old minor dents and rust areas.
4. Door panels
 - Right door : No exceptions noted.
 - Left door : No exceptions noted.
5. Remarks : There were "Flammable/Hazardous" stickers that had been attempted to be removed and parts of the warning stickers were still visible. These stickers were located on left and right panels, as well as the doors.

Condition of the shipment (findings)

The strong odor could be smelt even from 20-30 feet of the container. The odor appeared stronger at the rear end than at the front of the container. The odor appears to be absorbed within all the garments. Even though the doors had been opened about 2 hours prior to our inspection, the strong odor still prevailed within the container and the cargo. Even dry cleaned pieces of garments retained the odor. We did not see any stains of soil markings on the clothes.

Our surveyor was of the opinion that the odor was more chemical than of diesel fuel.

Salinity Tests

No water damage was noted or reported and hence, a salinity test was not necessary.

Probable cause of the damage

The previous cargo was lumber and the shipper confirmed that there was no smell during loading of the cargo.

National Marine Consultants Inc.
N 59116/05 Margrethe Maersk

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We should also look into the location of the container on the vessel to see if the smell emanated from the hold.

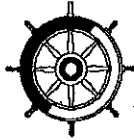
This preliminary report is based on facts presently known to the surveyor in attendance and is issued without prejudice to the rights of whom it may concern. The right to amend or supplement this report should additional information be made available is reserved.

National Marine Consultants Inc.

PV/ste

A handwritten signature, appearing to read 'Hayat', is written over a horizontal line.

EXHIBIT B
TO DECLARATION OF
SAMIUL AMIN



NATIONAL MARINE CONSULTANTS INC.

236 Ernston Road, Parlin, N.J. 08859 • Tel. 732-553-9210 • Fax. 732-553-9215
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REPORT OF SURVEY

Report no.: N 59116/05

May 27, 2005

Examined for : The account of whom it may concern.
Requested by : Maersk Sealand, Charleston, SC
(Ms. Trudy Coffey)
Vessel : Margrethe Maersk, Voy. #0506
Date/time survey requested: May 11, 2005 @ 1210 Hours
Date survey commenced : May 12, 2005
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Shipper : PYL Apparel Limited
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Value of Shipment: Unknown

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Background information

On May 11, 2005, the warehouse opened the subject container and a strong diesel odor was emanating from the cargo. Three samples were pulled and sent for dry cleaning.

ISO 9001:2000 Certified Quality System   and ISO/IEC 17020 Accredited 

*New York, Philadelphia, Baltimore, Norfolk, Wilmington(NC), Savannah, Miami, Tampa, New Orleans, Houston,
Los Angeles, Port Hueneme, Oakland, Seattle and throughout all points in the U.S., Canada, Europe & Worldwide*

National Marine Consultants Inc.
N 59116/05 Margrethe Maersk

-2-

The three samples after dry cleaning still retained the odor even though there were no stains on any of the clothing.

Our principals therefore requested us to inspect the cargo and container and report on conditions sighted.

Cargo Underwriters Information

This information was not made available to us, but Mr. Hal Mabee, of Norfolk Maritime, the Surveyors representing the Cargo Underwriters examined the cargo at a later date.

Persons attending during the survey

Ms. Vicky Walker of Jones Apparel Warehouse was present during our inspection.

Shipment Description

The subject shipment is said to comprise of 15,347 pieces of ladies garments.

Cargo stowage and condition in stow

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National Marine Consultants Inc.
N 59116/05 Margrethe Maersk

-3-

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We were of the opinion that the odor was more chemical than of diesel fuel. ✓

Salinity Tests

No water damage was noted or reported and hence, a salinity test was not necessary.

Probable Cause of the Damage

We learned from our principals that the previous cargo was general lumber (Alphonsea Avborea-Modern Timber Products). The empty container was thoroughly cleaned around February 17, 2005 in Hong Kong and then sent to the shipper for stuffing on April 8, 2005.

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N 59116/05 Margrethe Maersk

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If indeed the container was thoroughly cleaned and the shipper would certify to it, then we suggest that the location of the container on the vessel should be reviewed to see if the smell may have emanated from the hold on board the vessel.

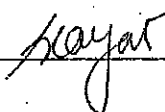
Final Disposition

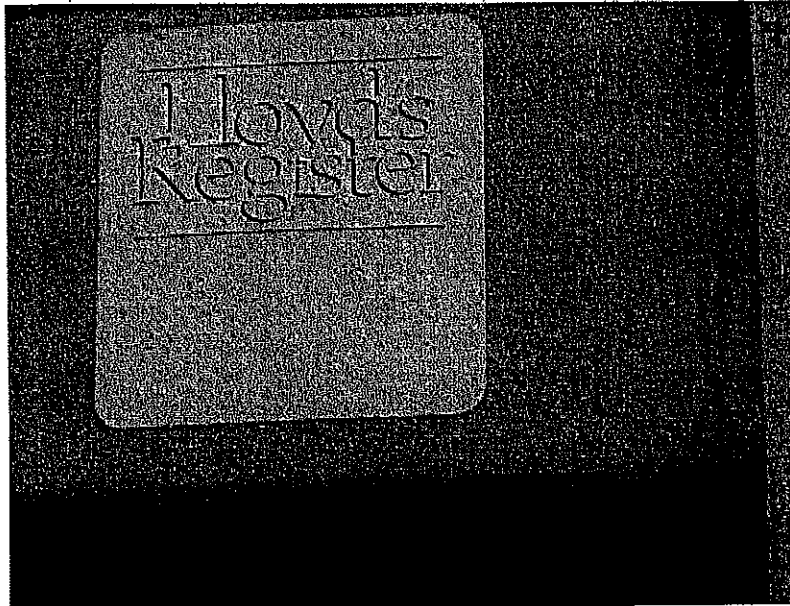
On May 27, 2005 we learned that the Consignee has not yet unloaded the cargo due to the presence of heavy odor and fear of workers getting sick and, hence, subject shipment may be destroyed.

This report is based on facts presently know to the surveyor in attendance and is issued without prejudice to the rights of whom it may concern. The right to amend or supplement this report should additional information be made available is reserved.

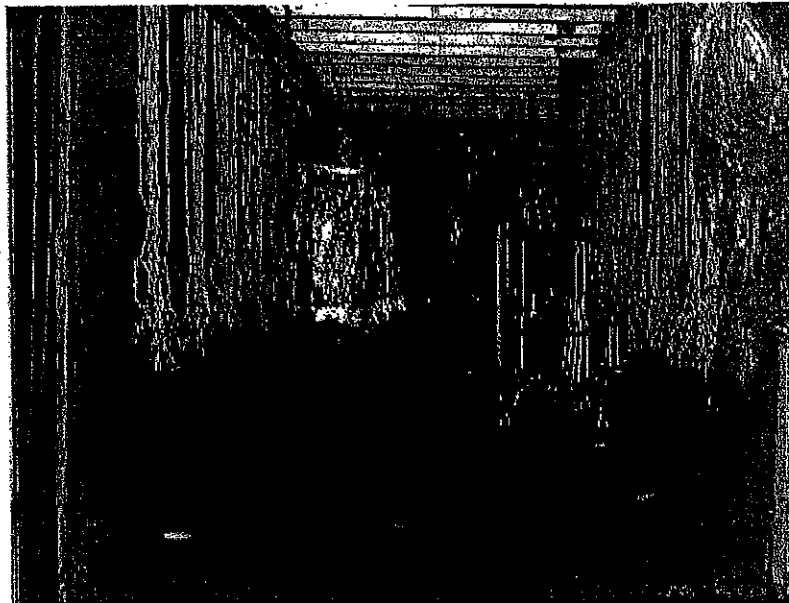
National Marine Consultants Inc.

PV/ste

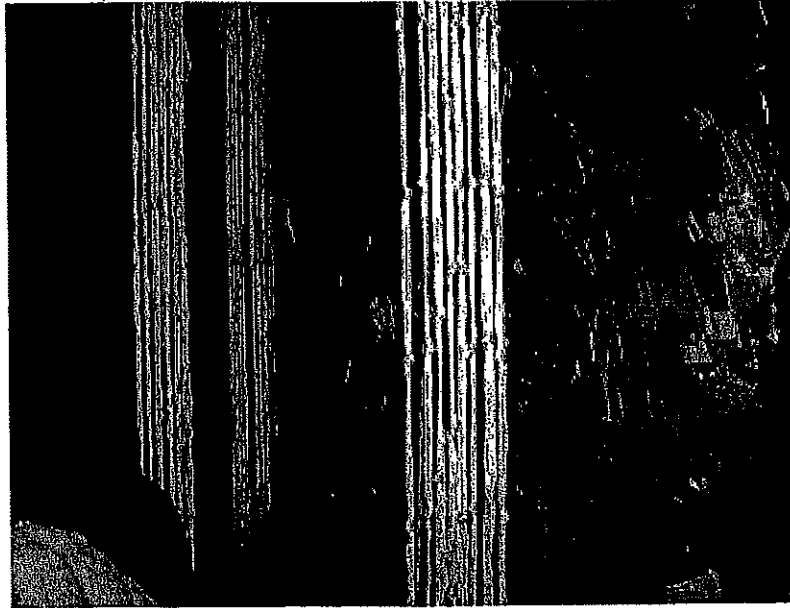




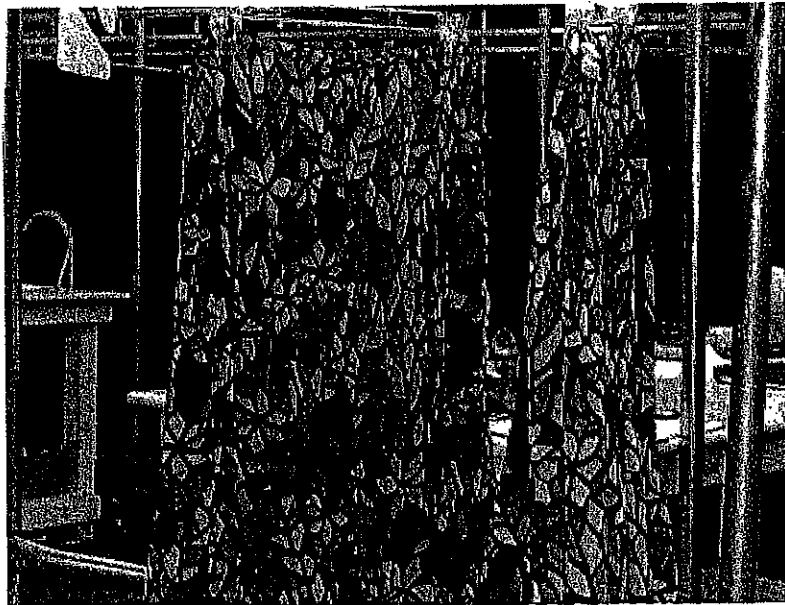
01. A sticker on the side panel of the exterior of the trailer



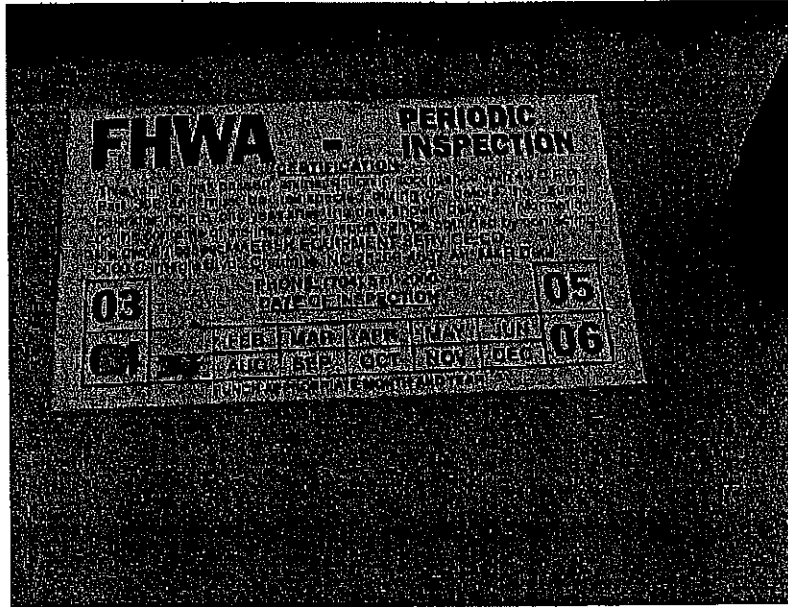
02. An example of how a container looks empty



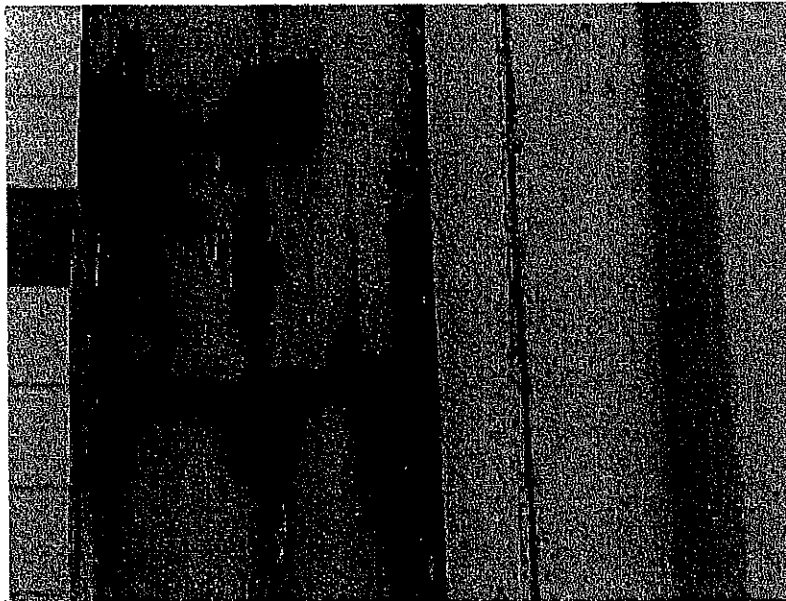
03. An example of how garments were hung



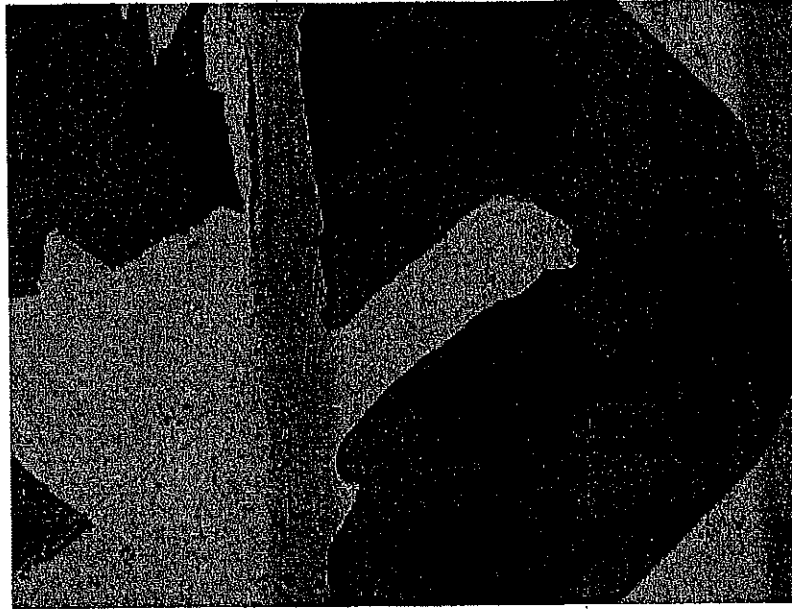
04. Another sample of the clothing that had been aired with the remaining chemical odor



05. Inspection sticker on the panel trailer



06. Rusty spot on corner of trailer



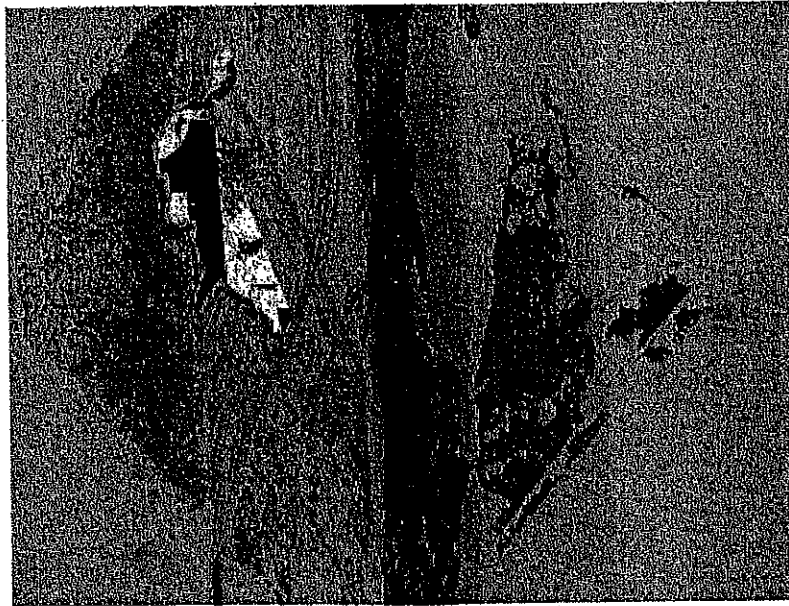
11. Sticker of flammable liquid



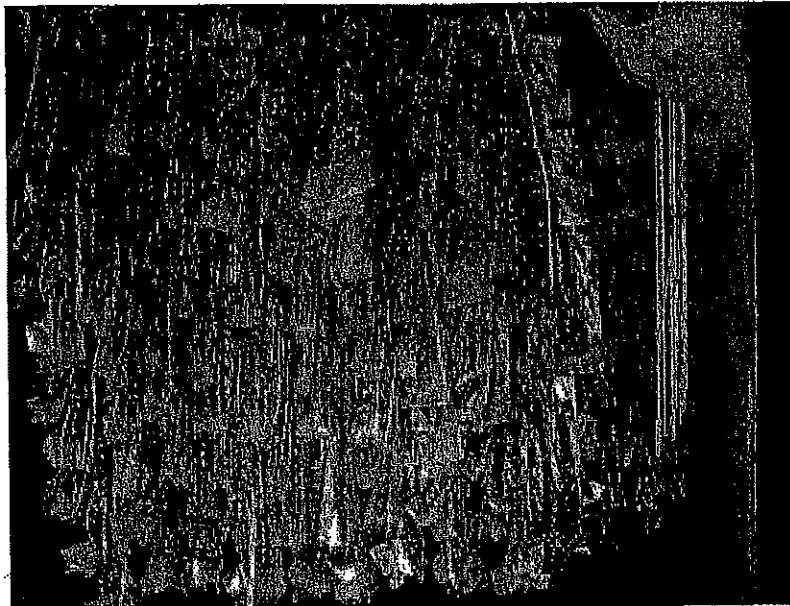
12. The dry cleaned garments with the odor still present



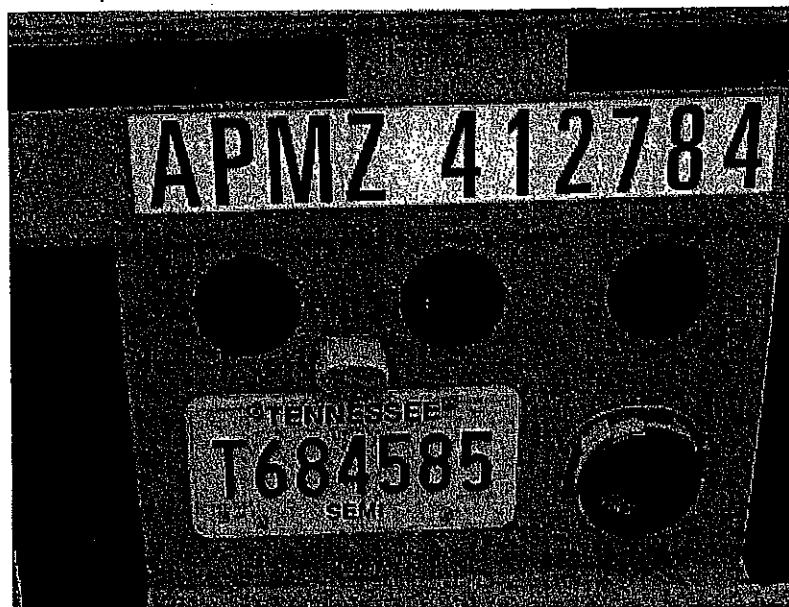
09. Shows the rust on the front corner



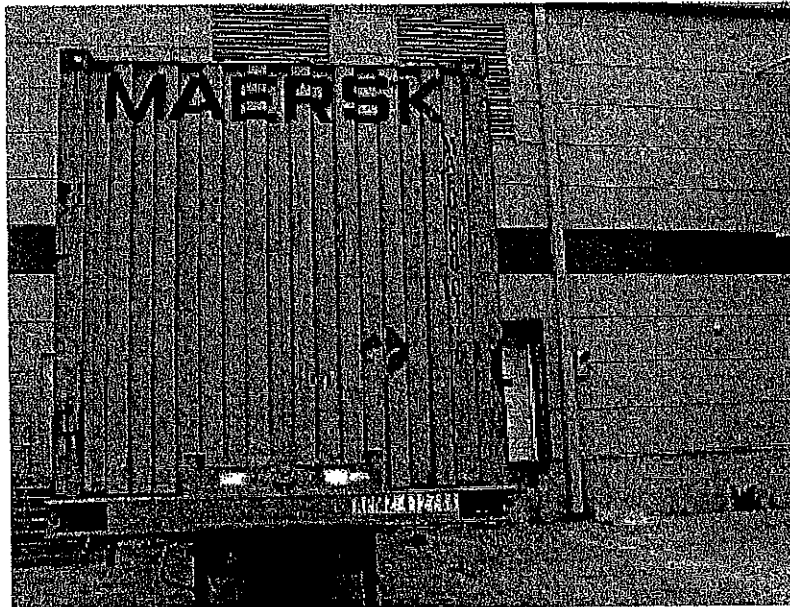
10. Shows where stickers have been removed



07. Shirts & blouses inside the container



08. Shows the axle number and Tenn. Lis. plate



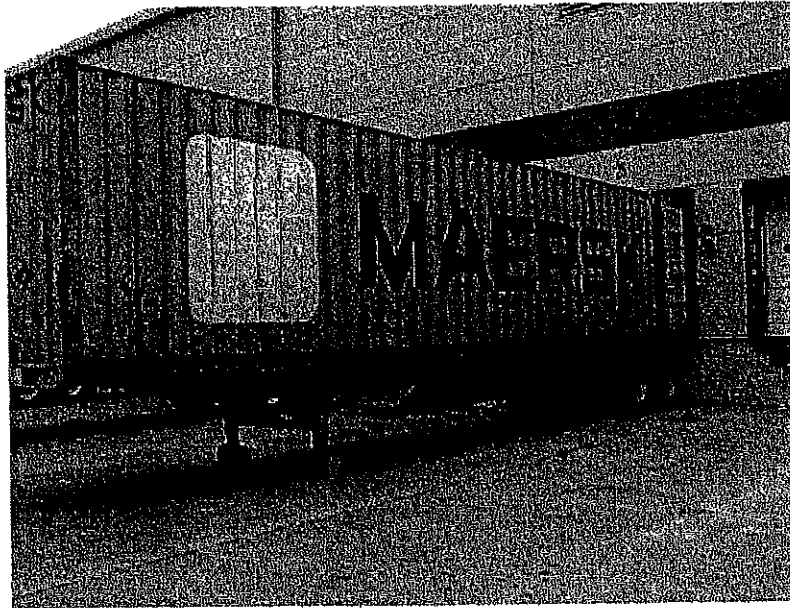
13. The front view of the container



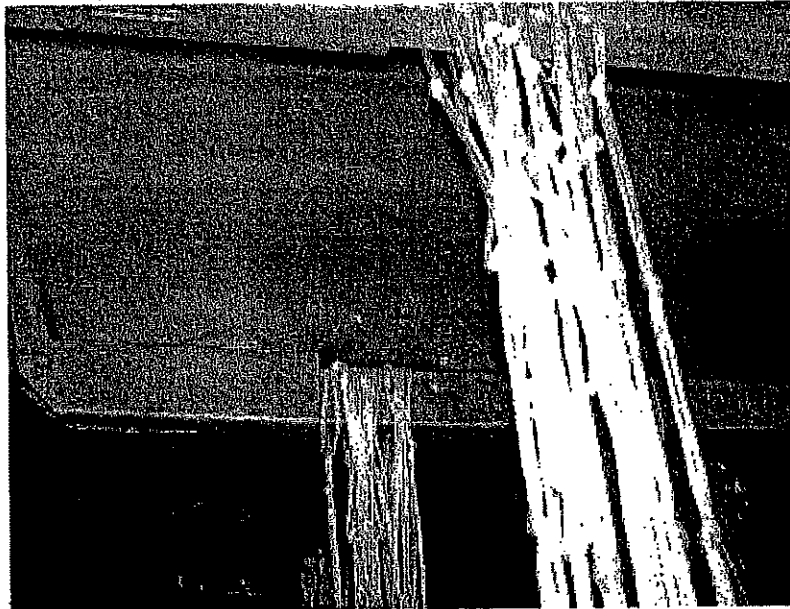
14. The left side at bottom of container



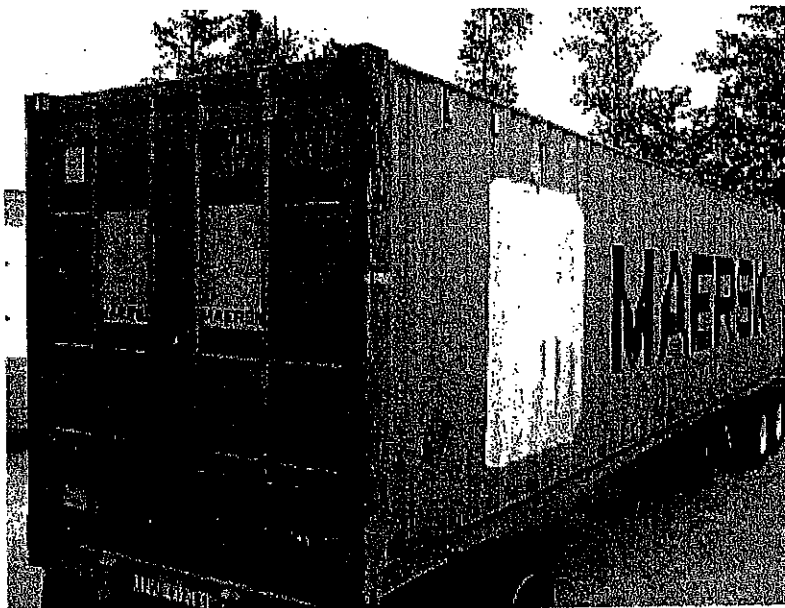
15. The left side from the front showing yellow warning sticker and container number



16. The right panel of the container



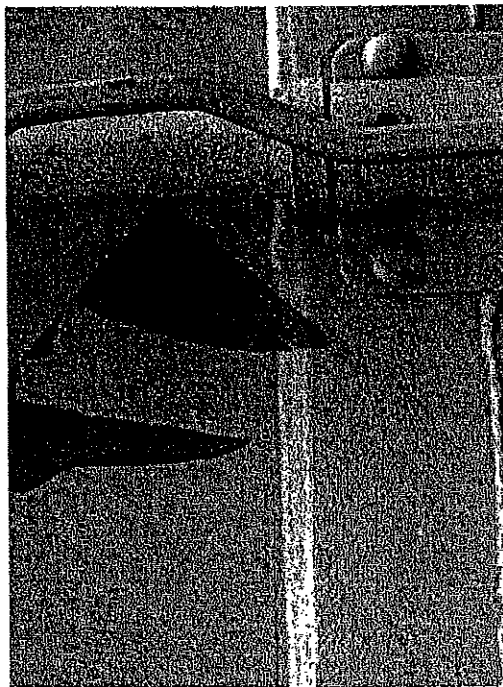
17. The ropes that the garments were connected



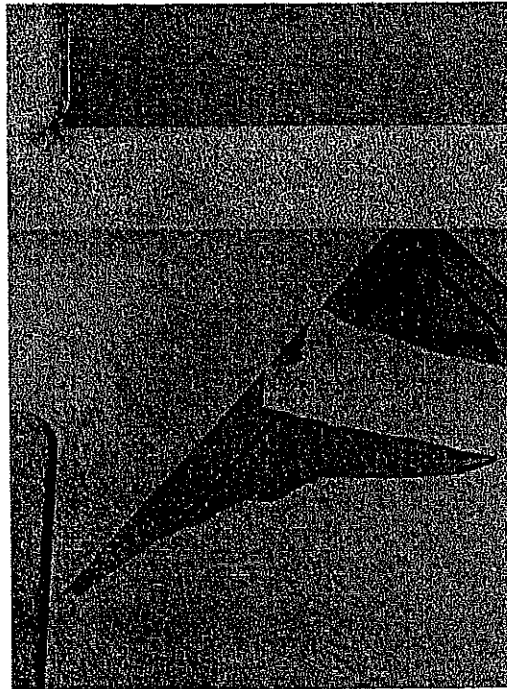
18. The side panel showing Maersk



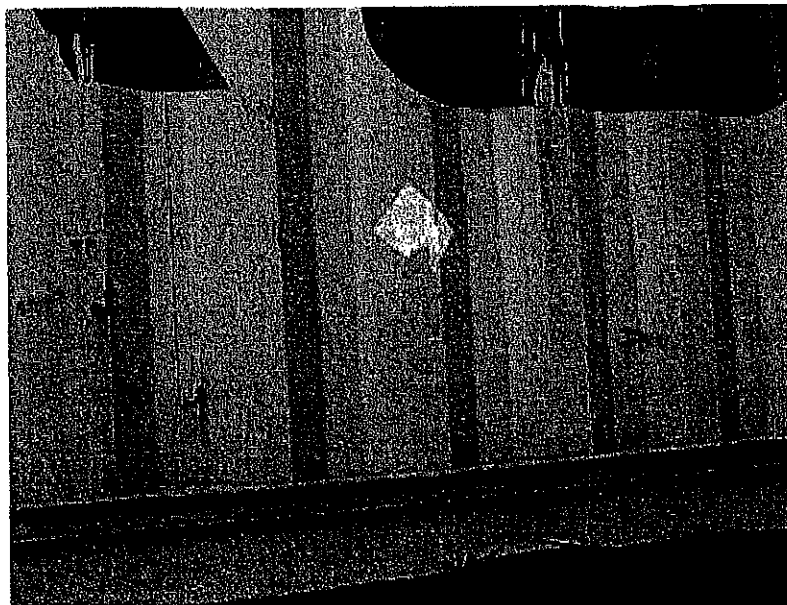
19. The wet spot from the rainwater on the right rear of the floor



20. Warning sticker on rear of door



21. Warning sticker on side panel



22. White sticker and other dents & rust markings